

75-2-202. Elective share -- Supplemental elective share amount -- Effect of election on statutory benefits -- Nondomiciliary.

(1) The surviving spouse of a decedent who dies domiciled in Utah has a right of election, under the limitations and conditions stated in this part, to take an elective-share amount equal to the value of 1/3 of the augmented estate.

(2) If the sum of the amounts described in Subsection 75-2-209(1), and that part of the elective-share amount payable from the decedent's probate estate and nonprobate transfers to others under Subsections 75-2-209(2) and (3) is less than \$75,000, the surviving spouse is entitled to a supplemental elective-share amount equal to \$75,000, minus the sum of the amounts described in those sections. The supplemental elective-share amount is payable from the decedent's probate estate and from recipients of the decedent's nonprobate transfers to others in the order of priority set forth in Subsections 75-2-209(2) and (3).

(3) If the right of election is exercised by or on behalf of the surviving spouse, the surviving spouse's homestead allowance, exempt property, and family allowance, if any, are charged against, and are not in addition to, the elective-share and supplemental elective-share amounts.

(4) The right, if any, of the surviving spouse of a decedent who dies domiciled outside Utah to take an elective share in property in Utah is governed by the law of the decedent's domicile at death.

Amended by Chapter 93, 2010 General Session